

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

CONVOLVE, INC.	§	
	§	
V.	§	Civil Action No. 2:08-CV-244 (CE)
	§	
DELL INC.,	§	
WESTERN DIGITAL CORPORATION,	§	
HITACHI GLOBAL STORAGE	§	
TECHNOLOGIES, INC. and HITACHI LTD.	§	

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**July 26, 2011  
Jury Trial Day Seven**

**OPEN: 8:10 a.m.**

**ADJOURN: 10:13 p.m.**

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ATTORNEYS FOR PLAINTIFF:	James Anderson
	Eric Albritton
	Marla Butler
	Stephen Edwards
	Tara Sharp
	Elizabeth Thomas
	Bryan Vogel

ATTORNEYS FOR DEFENDANTS:	Deron Dacus
	Eric Findlay
	Roger Fulghum
	Jeff Homrig
	Gene Schaerr
	Melissa Smith
	Kimball Anderson
	Doug Lumish
	Michael Smith
	Bruce Wessel
	David Schwarz
	Garland Kelley
	Joseph Lee
	Richard Birnholz
	Tom Werner
	Anna Halsey
	Chris Ponder

LAW CLERK:	Katrina Maher
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COURT REPORTER:	Shelly Holmes, CSR
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8:10 a.m. Court opened. The Court heard the parties' arguments with respect to Jury Instructions and Form of the Verdict and made rulings. The Court then heard the parties' Motions for Judgment as a Matter of Law and made further rulings.

9:12 a.m. Court recess.

9:21 a.m. Jury returned to the courtroom.

9:23 a.m. Mr. Anderson conducted closing argument on behalf of Plaintiff.

9:58 a.m. Messr. Lumish, Wessel and Dacus conducted closing argument on behalf Defendants.

11:00 a.m. Mr. Albritton conducted closing argument on behalf of Plaintiff.

11:24 a.m. Morning recess.

11:36 a.m. Court reconvened. The Court charged the jury.

12:20 p.m. Jury excused.

1:08 p.m. Jury note no. 1 received re exhibits. Exhibits retrieved. Court note to jury. No objection by parties.

1:40 p.m. Jury note 2 received regarding Stinger [sic] testimony. Court note to jury. No objection by attorneys.

1:46 p.m. Jury returned to courtroom to view demonstratives on screen.

1:50 p.m. Court recess.

1:55 p.m. Hearing outside the presence of the jury on laches. TRANSCRIPT TO BE SEALED.

1:56 p.m. Mr. Wessel presented argument as to Western Digital.

2:08 p.m. Jury note 3 received requesting additional documents. Court note to jury. Documents retrieved and given to jury.

2:22 p.m. Mr. Wessel continued his argument on laches.

2:25 p.m. Jury note 4 received requesting additional documents. Court note to jury. No objection by attorneys. Documents retrieved and given to jury.

2:31 p.m. Mr. Wessel continued his argument. Exhibits admitted into evidence JTX 1310 and JTX 1313 for laches trial ONLY.

2:44 p.m. Mr. Birnholz gave citations in support of evidentiary issues concerning Western Digital's position at trial.

2:48 p.m. Mr. Fulghum made comments regarding Dell to the Court and responded to Court questions.

2:55 p.m. Mr. Birnholz presented additional citations from July 25, 2011 afternoon transcript, page 16 lines 18 through page 17 line 5, testimony from Dr. Sidman. Dr. Buckman's testimony, afternoon transcript of July 25, 2011 page 55 line 7 through 16.

2:56 p.m. Mr. Lumish presented additional comments/argument on behalf of the Hitachi.

3:10 p.m. Court recess.

3:29 p.m. Jury note 5 received from jury re dictionary. Court note to jury. No objection by attorneys.

3:40 p.m. Note received from jury. Court response. No objection.

3:41 p.m. Mr. Anderson requested time to file a response to the laches issue. The Court ordered that the response be submitted no later than next Tuesday, August 2, 2011.

3:55 p.m. Jury note 6 received from jury requesting additional documents. Documents sent to jury.

4:10 p.m. Eric Albritton spoke about exhibit number 744. Exhibit sent to jury.

4:19 p.m. Court recess pending verdict from jury.

4:20 p.m. Jury note 7 received from jury requesting documents. Document retrieved and sent to jury.

4:34 p.m. Jury note 8 received from jury requesting documents. Documents retrieved and sent to jury.

4:47 p.m. Jury note 9 received from jury requesting Pasch testimony. Note to jury re Pasch testimony and supplemental note to jury re Pasch testimony.

5:45 p.m. Jury note 10 received from jury re deadlocked. Court response to jury. No objection by attorneys.

6:21 p.m. Court note to jury re dinner and arrangements for following day for Judge Bryant to take verdict. No objection by parties to have Judge Bryant take the verdict. Court recess.

6:29 p.m. Jury note 11 received re dinner arrangements.

6:42 p.m. Jury note 12 received re additional documents. Documents retrieved and sent to jury.

8:10 p.m. Jury note 13 received re additional documents. Documents retrieved and sent to jury.

9:39 p.m. Recess. Court asked the jury to return to courtroom . Jury asked for a few more minutes

10:10 p.m. Jury note 14 indicating the jury reached a verdict.

10:11 p.m. Jury returned to courtroom Verdict received. Jury foreman handed law clerk verdict. All stood representing a Unanimous verdict. Jury excused and thanked for service.

10:13 p.m. Court adjourned.